



DEPARTMENT OF LAW  
OFFICE OF THE  
**Attorney General**  
STATE CAPITOL  
Phoenix, Arizona 85007

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ATTORNEY GENERAL

September 7, 1978

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**ARIZONA ATTORNEY GENERAL**

Honorable Jim Hartdegen  
Arizona State Representative  
House Wing, Capitol Complex  
Phoenix, Arizona 85007

RE: 78-217 (R78-260)

Dear Representative Hartdegen:

You have recently asked this Office the following question:

Is a write-in candidate required to file nomination petitions pursuant to A.R.S. § 16-303?

A State may require candidates for its political offices to demonstrate a modicum of community support before granting places on the official ballot. This is premised upon the State's compelling interest in protecting the integrity of the electoral process by preventing the ballot from being cluttered with frivolous or fraudulent candidates. Jenness v. Fortson, 403 U.S. 431 (1971).

However, a write-in candidate by definition does not have, at the primary election, his or her name on the official ballot. Compliance with Arizona's primary election write-in candidacy statute (A.R.S. § 16-301.01) merely allows any votes cast for the write-in candidate to be counted in the official canvass of votes. Since a specific write-in candidate does not seek to obtain a place on the primary ballot, the rationale of the nomination petition requirement does not apply.

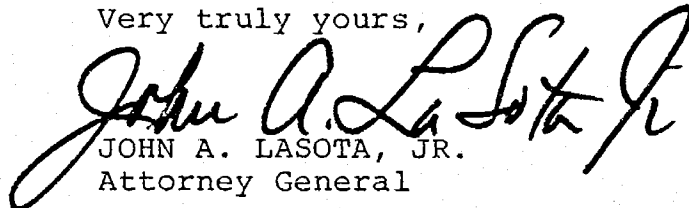
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The modicum of community support requirement applies only if the write-in candidate seeks to have her/his name appear on the official general election ballot. (See A.R.S. § 16-571). We therefore conclude that a write-in candidate is not required to file nomination petitions pursuant to A.R.S. § 16-303.

A.R.S. § 16-301.01 requires write-in filing procedures to track those established in 16-301. The Legislature could have specified that write-in candidates comply with the 16-303 nomination petition requirement. The fact that the Legislature did not specify compliance with 16-303 clearly indicates that write-in candidates were never intended to be subject to the nomination petition requirement.

Very truly yours,

  
JOHN A. LASOTA, JR.  
Attorney General

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